

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

NATHANIEL TATE,)	
)	
Plaintiff,)	Civil Action File No: 4:12-cv-238-HLM
)	
v.)	
)	
NOTS LOGISTICS, L.L.C. and TKT, INC. d/b/a NORRENBURNS TRUCK SERVICE,)	
)	<u>NOTICE OF REMOVAL</u>
)	
Defendants.)	
)	

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants NOTS Logistics, L.L.C. and TKT, Inc. d/b/a Norrenberns Truck Service (hereinafter “Defendants”), by and through their undersigned counsel, hereby give notice that the civil action presently pending in the Superior Court of Gordon County, Georgia identified as *Nathaniel Tate v. NOTS Logistics, L.L.C. and TKT, Inc. d/b/a Norrenberns Truck Service*, Civil Action File No. 12CV60849, is removed to this Court without waiving any rights to which Defendants may be entitled.

The above-entitled case is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1331 and is one that may be properly removed

to this Court pursuant to 28 U.S.C. § 1441. In compliance with 28 U.S.C. § 1446(a), Defendants assert the following grounds for removal:

1. In accordance with 28 U.S.C. §1446(a), copies of all record documents, including all orders, pleadings, and process which have to date been served upon Defendants are attached hereto as **Exhibit A**.

2. The Complaint in the above action was filed in the Superior Court of Bartow County, Georgia on or about August 29, 2012.

3. Defendants were served with process on September 10, 2012 by personal service at their headquarters in Nashville, Illinois. *See* Declaration of Andrew Kirchner (“A. Kirchner Decl.”), attached hereto as **Exhibit B**, at ¶ 3, and Declaration of Timothy Kirchner (“T. Kirchner Decl.”), attached hereto as **Exhibit C**, at ¶ 3.

4. Defendants have not filed, served, or received any papers or pleadings in the State Court Action other than those attached as Exhibit A hereto.

5. This Notice of Removal is timely filed in that it is filed within thirty (30) days of initial service of the Complaint on Defendants. *See* 28 U.S.C. § 1446(b)(1).

6. Undersigned counsel represents all Defendants in this action and expressly states that each Defendant has consented to the removal of this action. *See* A. Kirchner Decl. at ¶ 4; T. Kirchner Decl. at ¶ 4.

7. Plaintiff's Complaint alleges a violation of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.* *See* Complaint at Count I, ¶¶ 15 – 17.

8. Removal of this action is therefore proper under 28 U.S.C. §§ 1331 (federal question jurisdiction) and 1441(a) (removal jurisdiction).

9. Pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over Plaintiff's state law breach of contract claim because that claim is so related to Plaintiff's FLSA claim that they form part of the same case or controversy under Article III of the United States Constitution. Specifically, Plaintiff's breach of contract claim is based upon Defendants' alleged failure to pay Plaintiff as required by law, presumably the FLSA. *See* Complaint at Count II, ¶¶ 18 – 21.

10. Venue is properly placed in the United States District Court for the Northern District of Georgia, Rome Division, because it is the district court for the district and division within which the state action is pending (the Superior Court of Gordon County, Georgia), in accordance with 28 U.S.C. § 1446(a).

11. Undersigned counsel certifies, in accordance with 28 U.S.C. § 1446(d), that contemporaneously with the filing and service of this Notice of Removal, Defendants have served notice of this removal request upon Plaintiff's counsel, Jeffrey M. Hood, Brunt & Hood, LLC, 118 Court Street, Calhoun, Georgia 30701 and Jesse L. Vaughn, Vaughn & Clements, LLC, 109 West Hicks Street, Calhoun, Georgia 30701.

12. Undersigned counsel further certifies, in accordance with 28 U.S.C. § 1446(d), that contemporaneously with the filing and service of this Notice of Removal, a copy of same, along with Defendants' "Notice of Filing of Notice of Removal" has been filed with the Clerk of the Superior Court of Gordon County.

For all the foregoing reasons, Defendants respectfully submit that this action is removable to this Court pursuant to 28 U.S.C. §§ 1331 and 1441, and that its Notice of Removal complies with the requirements set forth in 28 U.S.C. § 1446.

WHEREFORE, Defendants respectfully remove this action from the Superior Court of Gordon County to the United States District Court for the Northern District of Georgia, Rome Division.

[Additional Page Follows]

Respectfully submitted this 9th day of October, 2012.

s/Steven G. Hopkins

Steven G. Hopkins

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**ATTORNEYS FOR
DEFENDANTS NOTS
LOGISTICS, L.L.C. and TKT,
INC. d/b/a NORRENBURNS
TRUCK SERVICE**

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
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NATHANIEL TATE,)	
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Plaintiff,)	Civil Action File No:
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NOTS LOGISTICS, L.L.C. and TKT, INC. d/b/a NORRENBURNS TRUCK SERVICE,)	
)	<u>CERTIFICATE OF SERVICE</u>
)	
Defendants.)	
)	

I hereby certify that on October 9, 2012, I electronically filed the foregoing ***Notice of Removal***, and exhibits thereto, using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorney(s) of record:

Jeffrey M. Hood, Counsel for Plaintiff
Jesse L. Vaughn, Counsel for Plaintiff

I further certify that this day I served the foregoing ***Notice of Removal*** on Plaintiff's counsel by depositing a copy of same in the U.S. Mail, with sufficient postage pre-paid, and addressed as follows:

Jeffrey M. Hood
Brunt & Hood, LLC
Attorneys at Law
118 Court Street
Calhoun, Georgia 30701

Jesse L. Vaughn
Vaughn & Clements, LLC
Attorneys at Law
109 West Hicks Street
Calhoun, Georgia 30701

Finally, I hereby certify that this day I served the foregoing *Notice of Removal* on the Clerk of the Superior Court for Fulton County, Georgia, by having a copy of same filed by hand at the following address:

Clerk of the Superior
Court for Gordon County
Gordon County Courthouse
First Floor
100 South Wall Street
Calhoun, Georgia 30701

This 9th day of October, 2012.

s/Steven G. Hopkins

Steven G. Hopkins

Georgia Bar No. 142427

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